



Congress of the United States

House of Representatives

Washington, DC 20515

August 18, 2004

The Honorable Ulla Schmidt
Federal Ministry for Health and Social Security
Wilhelmstrasse 49
11017 Berlin
GERMANY

Dear Minister Schmidt:

As members of Congress who represent Holocaust survivors living in Los Angeles, California, we urgently request action to address the sweeping denials of applications for pension insurance filed under Gesetz zur Zahlbarmachung von Renten aus Beschäftigungen in einem Ghetto (ZRBG) for so-called "ghetto pensions."

On its face ZRBG appears to be a well-meaning and generous law intended to ease the burden of aging survivors who performed labor in Nazi ghettos. Unfortunately, the German pension authority charged with processing the applications, the Landesversicherungsanstalt Freie und Hansestadt (LVA) office in Hamburg, has used narrow interpretations of the program's eligibility criteria that seriously undermine its good intentions.

According to Bet Tzedek, a legal aid service based in Los Angeles, nearly 135 Holocaust survivors from the Los Angeles area have applied for ZRBG benefits using their services (and many others have applied independently) since the program began in 2002. Of Bet Tzedek's clients, at least 13 applicants have waited a year without a response, 22 have waited between nine months and a year, and all but five who have received responses were rejected. Sadly, there are similar statistics among applicants from New York and Florida, with a rate of 80% of all applications being rejected. With organizations like Bet Tzedek working feverishly to appeal these decisions before the elderly claimants pass away, we urgently request your attention to flaws and inconsistencies in the program that are causing these widespread rejections.

Specifically, we would like to bring to your attention to the following problems with the ZRBG application and decision-making processes. Many of these issues were also raised in an April 20, 2004 letter sent by the Conference on Jewish Material Claims Against Germany.

1. The LVA's processing of ZRBG applications is highly erratic. Some applications are reviewed quickly, while others wait over six months and some linger even more than a year before a decision is issued. The disproportionate number of appeals and mistakes across all of these cases indicates a serious lack of care and thorough review. On at least one occasion, a Bet Tzedek client received a rejection to her application before the actual application was even completed.

2. The instructions accompanying the ghetto pension application forms (D/USA 1 and D/USA 2) do not give applicants the best chance at providing all required data. Applications provide only general instructions without additional information explaining the qualification requirements under ZRBG or an opportunity to provide in-depth details that could improve their chances for a positive decision.
3. The LVA's main reasons for rejecting applications appear to indicate a lack of sensitivity to the victims and a lack of understanding about the conditions and circumstances under which they worked in the ghettos.
 - a. The LVA's requirement that compensation was received for work performed does not acknowledge that "payments" may not have been directly to the victim, that it was unlikely to be significant, and that it may have been made through indirect means – such as the provision of additional food or clothing or in an intangible form like freedom from the Nazi beatings, killings, and deportations that befell those who did not work.
 - b. The LVA's requirement that workers had to be 14 or older to be eligible for ZRBG is an arbitrary criterion that violates the Federal Social Court decision, referenced in the Claims Conference letter, that the law has "no firm age limit." It is disturbing that so many applicants have already been rejected on this basis considering that children of the ghettos were also laborers and that so many of the survivors still alive today were younger than 14 at the time of the war.
 - c. The LVA's definition of a "ghetto" is overly narrow. Applications have been rejected from areas within the geographical jurisdiction of the program that had all characteristics of being a ghetto but were never officially designated as such. These characteristics include: deportation of residents into a smaller, concentrated area; extreme limitations on a resident's right to travel or dwell outside the concentrated area; imposition of severe standards of living; and, maintenance of control over the concentrated population through intimidation, random violence, and murder.
 - d. A large number of applicants have been rejected because statements in previous compensation procedures do not mention work in a ghetto, regardless of whether such information was requested by the program for which they applied.
4. There is a lack of consistency and clarity in the decisions issued by the LVA. Negative decisions frequently omit important statements about applicants' legal rights. For example, applicants who received notice of their decisions outside of Germany were informed they have only a month to appeal their denial when in fact German law affords them three months.

5. Rulings issued by the Federal Social Court and the committee of insurance experts to ease the application process by liberalizing and clarifying eligibility criteria have not been sufficiently applied and adhered to by the LVA. Likewise, there has not been an effort to re-open and re-evaluate rejections and appeals that may have been improperly evaluated prior to the implementations of these rulings.

These serious problems warrant an immediate investigation and review of the LVA's interpretation of the ZRBG law to ensure that the handling of applications and appeals is fair, expeditious, and consistent with the law's intent. Considering the advanced age of the applicants and their extreme frustration and sensitivity to the issue at hand, we urge you to revise the ZRBG program so that it meets the high standards of clarity, accountability, and accessibility that have long been a hallmark of analogous programs that benefit Nazi victims in the framework of Germany's comprehensive compensation and reparation laws.


Thank you for your attention to this issue. We look forward to your response.

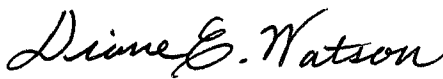
Sincerely,


HENRY A. WAXMAN
Member of Congress


HOWARD L. BERMAN
Member of Congress


BRAD SHERMAN
Member of Congress


ADAM B. SCHIFF
Member of Congress


DIANE E. WATSON
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